

DETAILED ACTION

1. This application is a 371 of PCT/EP05/00388 filed 01/17/2005 and claims priority to French application 04/01046 filed 02/04/2004.

Claims 14, 16-17 are pending.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Harry Shubin on October 26, 2009.

The application has been amended as follows:

In claim 14 after the words or

Delete "a geometrical or".

And

Insert –an-.

In claim 14 after the word hydrate,

Insert –or-.

In claim 17 after the words or for

Delete "prevention or "

Rejoinder

3. Claims 14 and 16 directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claim 17, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on September 8, 2008 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Reasons for allowance

4. The following is an examiner's statement of reasons for allowance: The claims have been amended to represent claims that are enabled. The rejection of claim 14 under enablement for "amine oxide" and "hydrate" is withdrawn. Given that this claim is drawn only to a very small number of compounds and at least one can form an amine oxide (the pyridine) the rejection is withdrawn. With respect to the claims to hydrate, the examiner finds the applicants' representative's arguments persuasive. Based on the fact that the claims are very narrow and that

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a very high percentage of compounds form hydrates (according to the citation 1/3) coupled with the fact that U.S. patents: 6,860,940; 7,015,041; 7,052,545; 7,195,670; 7,214,540; 7,229,500, teach high throughput methods for screening and characterization of hydrates the rejection is withdrawn. In particular U.S. 6,860,940 teaches that a robot can be used to perform the task. Taken together this evidence suggests that preparing a solvate would be routine and statistically speaking at least two of the compounds would form hydrates.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5.. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David K. O'Dell whose telephone number is (571)272-9071. The examiner can normally be reached on Monday-Friday 9:00 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JANET ANDRES can be reached on (571)272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David K. O'Dell/

Examiner, Art Unit 1625

/Rita J. Desai/
Primary Examiner, Art Unit 1625